

USDC SCAN INDEX SHEET



LLH 12/28/99 14:03

3:99-CV-01485 MONTENENGRO V. ADMONT INC MONEY

\*5\*

\*STIPO.\*

5)

**FILED**

DEC 20 1989

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

RUTH ANN ALONSO, GILBERTO ALVIDRAZ, JORGE ARÇILA, ADOLFO  
BECERRA, RICARDA CHAVEZ, MARIA DE LA ROCHA, MANUEL FAVELA,  
AURORA SANCHEZ, JUANA TRUJILLO, ANTONIO MONTENEGRO, EFRAIN  
PEREZ, JESUS PERES, AGUSTIN PANTOJA, RAUL MUNIZ, FRANCISCO

1 BRIAGAS, MAGDALENA MEDINA, DAN MILLAN, PETRA GUERRA, JESUS  
2 MARTINEZ, ALFONSO GONZALEZ, MARIA G. GOMEZ, JUAN RODRIGUEZ,  
3 RICARDO POLANCO, JOSE VALADEZ, CECILIA ZARAGOZA, AND VICTORIA  
4 VALADEZ.

5       2. Plaintiffs agree that their interests in the  
6 Admont Inc. Money Purchase Pension Plan and in the Admont  
7 Inc. Profit Sharing Plan, which are fully vested,  
8 are to be distributed to them in lump sums. These lump sum  
9 distributions are to be effected by checks written to the  
10 individual plaintiffs by Defendant Pat Cochrane, as trustee  
11 of the plans, out of the plan investment accounts except  
12 for the interests of Antonio Montenegro and Ruth Ann  
13 Alonso. Antonio Montenegro's interests, without withholding,  
14 are to rolled over into a qualified retirement plan by way of  
15 a check written to Merrill, Lynch, Pierce, Fenner & Smith,  
16 Inc., for the benefit of the retirement account of Antonio  
17 Montenegro which is Account # 063-22E-10223-5. Mr. Antonio  
18 Montenegro's Taxpayer ID# is 552-76-5956. Ruth Ann Alonso's  
19 interests, without withholding, are to be rolled over to a  
20 qualified retirement plan by way of a check written to CALFED  
21 Brokerage Services, FBO Ruth Ann Alonso, Account # 798-403-  
22 6165, 5332 Jackson Drive, La Mesa, CA 91942, Attn. Lydia  
23 Avalos. For the plaintiffs other than Antonio Montenegro and  
24 Ruth Ann Alonso, it is agreed that a check for the benefit of  
25 each individual plaintiff shall be written to the Internal  
26 Revenue Service in the amount of 20% of the participant's  
27 interests in the name of the participant which amount is the  
28 tax withholding provided by law. The checks to the

1 individual plaintiffs, except for Antonio Montenegro and Ruth  
2 Ann Alonso, shall be sent to plaintiffs care of their attorney  
3 Sean T. O'Bryan whose address is listed above along with  
4 copies of the checks sent to the IRS on behalf of all these  
5 Plaintiffs. It is agreed that delivery of the checks  
6 to Sean T. O'Bryan shall be deemed delivery to the individual  
7 Plaintiffs. The lump sum distributions shall be completed as  
8 soon as possible with a full completion date expected by  
9 December 31, 1999. Plaintiffs have received all notices  
10 required by ERISA and have properly waived the joint and  
11 survivor annuity as part of their elections for lump sum  
12 payments and have executed all other waivers required by  
13 ERISA.

14 3. The Admont Inc. Money Purchase Pension Plan  
15 shall be amended as provided in Exhibit 1 attached hereto.

16 4. The Admont Inc. Profit Sharing Plan shall be  
17 deemed amended as provided in Exhibit 2 attached hereto.

18 5. Plaintiffs acknowledge that it is impossible to  
19 correct the failure to restate the Plans retroactively at  
20 this time because there is no sponsor for the Plans  
21 and Plaintiffs hereby waive any claim they may have  
22 against Defendants with respect thereto. Because only Admont,  
23 Inc., absent a court order, could order a distribution from  
24 the Plans, and because Admont, Inc. is no longer in existence  
25 it was impossible to effect any distribution of plan benefits  
26 to Plaintiffs. Accordingly, Plaintiffs acknowledge and agree  
27 as part of this settlement that Defendants breached no  
28 fiduciary duty to Plaintiffs for having failed to make

1 earlier distribution. Moreover, Defendant Cochrane has been,  
 2 and remains entitled to distribution of his vested benefit  
 3 after all loans to him by the Plans have been repaid  
 4 with all required interest. In exchange for payment of  
 5 distributions called for hereby, Plaintiffs waive and release  
 6 any and all claims they may have against Defendants and, as  
 7 applicable, their heirs, successors, assigns, attorneys,  
 8 parent corporations, and subsidiaries, which claims arise out  
 9 of or relate to their respective benefits in the Plans.

10 6. Upon completion of the lump sum distributions  
 11 provided for in this stipulation and entry of the order  
 12 on this stipulation, Plaintiffs will dismiss this action with  
 13 prejudice against the Defendants. The parties will bear  
 14 their own attorney's fees and costs and expenses incurred in  
 15 this action or which may be incurred in bringing it to  
 16 completion. Plaintiffs' counsel will send conformed copies of  
 17 the order dismissing the action to Defendants' counsel after  
 18 the order dismissing the action is entered.

19 Dated: 12/27/99


Sean T. O'Bryan  
 Sean T. O'Bryan,  
 Attorney for Plaintiffs

22 Dated: 12/14/99

23 By: REISH & LUFTMAN  
James C. Luftman  
 Attorneys for Defendants  
 Pat Cochrane, Admont Inc.  
 Money Purchase Plan, and  
 Admont Inc. Profit Sharing  
 Plan

1  
2 Dated:

12/17/99

  
Joseph Pash, Jr.  
Attorney for Defendant  
Merrill, Lynch, Pierce,  
Fenner, & Smith, Inc.

3  
4  
5 ORDER

6 The court has reviewed the foregoing stipulation  
7 of the parties. Good cause appearing,

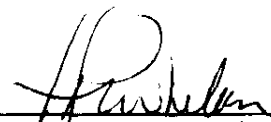
8 IT IS ORDERED:

9 1. That the provisions of the foregoing stipulation  
10 be carried out by the parties as provided in the  
11 stipulation.

12 2. Upon completion of the distributions  
13 called for by the stipulation, Plaintiff's counsel shall  
14 submit an order dismissing this action with prejudice for  
15 the court's signature.

16  
17 Dated:

12/28/99

  
Judge of the United  
States District Court

ADOPTION AGREEMENT FOR  
REISH & LUFTMAN  
STANDARDIZED MONEY PURCHASE  
PLAN AND TRUST  
(WITH PAIRING PROVISIONS)

The undersigned Employer adopts the Reish & Luftman Standardized Money Purchase Plan and Trust for those Employees who shall qualify as Participants hereunder, to be known as the

A1 Admont, Inc. Money Purchase Pension Plan  
(Enter Plan Name)

It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

**CAUTION:** The failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

### EMPLOYER INFORMATION

B1 Name of Employer Admont, Inc.

B2      Address See Trustee Address

\_\_\_\_\_  
City State Zip

Telephone \_\_\_\_\_

B3 Employer Identification Number \_\_\_\_\_

B4 Date Business Commenced

B5 TYPE OF ENTITY

- a. ☐ S Corporation  
b. ☐ Professional Service Corporation  
c. ☒ Corporation  
d. ☐ Sole Proprietorship  
e. ☐ Partnership  
f. ☐ Other

AND, is the Employer a member of...

- g. a controlled group? ( ) Yes (X) No  
h. an affiliated service group? ( ) Yes (X) No

**PLAN INFORMATION**

**C1 EFFECTIVE DATE**

This Adoption Agreement of the Reish & Luftman Standardized Money Purchase Plan and Trust shall:

- a. ☐ establish a new Plan effective as of \_\_\_\_  
(hereinafter called the "Effective Date").
- b. ☒ constitute an amendment and restatement in its entirety of a previously established qualified Plan of the Employer which was effective June 8, 1978 (hereinafter called the "Effective Date"). Except as specifically provided in the Plan, the effective date of this amendment and restatement is June 1, 1989 (For TRA '86 amendments, enter the first day of the first Plan Year beginning in 1989).

**C2 PLAN YEAR means the 12 consecutive month period:**

Commencing on a. June 1st (e.g., January 1st) and  
ending on b. May 31st.

IS THERE A SHORT PLAN YEAR?

- c. ☒ No
- d. ☐ Yes, beginning \_\_\_\_  
and ending \_\_\_\_\_.

**C3 ANNIVERSARY DATE of Plan (Annual Valuation Date)**

a. May 31st  
month day

**C4 PLAN NUMBER assigned by the Employer (select one)**

a. ☒ 001    b. ☐ 002    c. ☐ 003    d. ☐ Other \_\_\_\_\_



C5 NAME OF PLAN ADMINISTRATOR (Document provides for the Employer to appoint an Administrator. If none is named, the Employer will become the Administrator.)

a. ☒ Employer (Use Employer Address)

b. ☐ Name \_\_\_\_\_

Address ☐ Use Employer Address

\_\_\_\_\_

\_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip

Telephone \_\_\_\_\_

Administrator's I.D. Number \_\_\_\_\_

C6 PLAN'S AGENT FOR SERVICE OF LEGAL PROCESS

a. ☒ Employer (Use Employer Address)

b. ☐ Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

**ELIGIBILITY, VESTING AND RETIREMENT AGE**

D1 ELIGIBLE EMPLOYEES (Plan Section 1.15) shall mean all Employees who have satisfied the eligibility requirements except those checked below:

- a. ☒ N/A. No exclusions.
- b. ☐ Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer.
- c. ☐ Employees who are nonresident aliens who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code Section 861(a)(3)).

**NOTE:** For purposes of this section, the term Employee shall include all Employees of this Employer, any Affiliated Employer, and any leased employees deemed to be Employees under Code Section 414(n) or 414(o).

D2 HOURS OF SERVICE (Plan Section 1.31) will be determined on the basis of the method selected below. Only one method may be selected. The method selected will be applied to all Employees covered under the Plan.

- a. ☒ On the basis of actual hours for which an Employee is paid or entitled to payment.
- b. ☐ On the basis of days worked. An Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.
- c. ☐ On the basis of weeks worked. An Employee will be credited forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.
- d. ☐ On the basis of semi-monthly payroll periods. An Employee will be credited ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.
- e. ☐ On the basis of months worked. An Employee will be credited one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

- D3 CONDITIONS OF ELIGIBILITY (Plan Section 3.1)  
(Check either a **OR** b and c, and if applicable, d)

Any Eligible Employee will be eligible to participate in the Plan if such Eligible Employee has satisfied the service and age requirements, if any, specified below:

- a. ☐ NO AGE OR SERVICE REQUIRED.
- b. ☒ SERVICE REQUIREMENT. (may not exceed 2 years; if more than one Year of Service is required, 100% immediate vesting is mandatory).
1. ☐ None
  2. ☐ 1/2 Year of Service
  3. ☐ 1 Year of Service
  4. ☐ 1 1/2 Years of Service
  5. ☐ 2 Years of Service
  6. ☒ Other 6 Months of Service

**NOTE:** If the Year(s) of Service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year. If expressed in Months of Service, an Employee will not be required to complete any specified number of Hours of Service in a particular month.

- c. ☒ AGE REQUIREMENT (may not exceed 21)

1. ☐ N/A - No Age Requirement.
2. ☒ 20 1/2
3. ☐ 21
4. ☐ Other \_\_\_\_\_

- d. ☐ FOR NEW PLANS ONLY - Regardless of any of the above age or service requirements, any Eligible Employee who was employed on the Effective Date of the Plan shall be eligible to participate hereunder and shall enter the Plan as of such date. (This option may not be selected if more than one (1) Year Service is required above.)

D4 EFFECTIVE DATE OF PARTICIPATION (Plan Section 3.2)  
An Eligible Employee shall become a Participant as of:

- a. ( ) the first day of the Plan Year in which he met the requirements.
- b. ( ) the first day of the Plan Year in which he met the requirements, if he met the requirements in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if he met the requirements in the last 6 months of the Plan Year.
- c. ( ) the earlier of the first day of the seventh month or the first day of the Plan Year coinciding with or next following the date on which he met the requirements.
- d. ( ) the first day of the Plan Year next following the date on which he met the requirements. (Eligibility must be 1/2 Year of Service or less or 1 1/2 Years of Service or less if 100% immediate vesting is selected and age 20 1/2 or less.)
- e. (X) the first day of the month coinciding with or next following the date on which he met the requirements.
- f. ( ) Other: \_\_\_\_\_, provided that an Employee who has satisfied the maximum age and service requirements that are permissible in Section D3 above and who is otherwise entitled to participate, shall commence participation no later than the earlier of (a) 6 months after such requirements are satisfied, or (b) the first day of the first Plan Year after such requirements are satisfied, unless the Employee separates from service before such participation date.

## D5 VESTING OF PARTICIPANT'S INTEREST (Plan Section 6.4(b))

The vesting schedule, based on number of Years of Service, shall be as follows:

a. ( ) 100% upon entering Plan. (Required if eligibility requirement is greater than one (1) Year of Service.)

b. ( ) 0-2 years 0%  
3 year 100%

c. ( ) 0-4 years 0%  
5 years 100%

d. (X) 0-1 year 0%  
2 years 20%  
3 years 40%  
4 years 60%  
5 years 80%  
6 years 100%

e. ( ) 1 year 25%  
2 years 50%  
3 years 75%  
4 years 100%

f. ( ) 1 year 20%  
2 years 40%  
3 years 60%  
4 years 80%  
5 years 100%

g. ( ) 0-2 years 0%  
3 years 20%  
4 years 40%  
5 years 60%  
6 years 80%  
7 years 100%

h. ( ) Other - Must be at least as liberal as either c. or g. above.

Years of Service	Percentage
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## D6 FOR AMENDED PLANS (Plan Section 6.4(f)) If the vesting schedule has been amended to a less favorable schedule, enter the pre-amended schedule below:

a. ( ) Vesting schedule has not been amended or amended schedule is more favorable in all years.

b. (X) Years of Service	Percentage
3	25%
4	50%
5	75%
6	100%
_____	_____
_____	_____
_____	_____

D7 TOP HEAVY VESTING (Plan Section 6.4(c)) If this Plan becomes a Top Heavy Plan, the following vesting schedule, based on number of Years of Service, for such Plan Year and each succeeding Plan Year, whether or not the Plan is a Top Heavy Plan, shall apply and shall be treated as a Plan amendment pursuant to this Plan. Once effective, this schedule shall also apply to any contributions made prior to the effective date of Code Section 416 and/or before the Plan became a Top Heavy Plan.

a. ☒ N/A (D5a, b, d, e or f was selected)

b. <input type="checkbox"/> 0-1 year	0%	c. <input type="checkbox"/> 0-2 years	0%
2 years	20%	3 years	100%
3 years	40%		
4 years	60%		
5 years	80%		
6 years	100%		

**NOTE:** This section does not apply to the Account balances of any Participant who does not have an Hour of Service after the Plan has initially become top heavy. Such Participant's Account balance attributable to Employer contributions and Forfeitures will be determined without regard to this section.

D8 VESTING (Plan Section 6.4(h)) In determining Years of Service for vesting purposes, Years of Service attributable to the following shall be EXCLUDED:

a. ☐ Service prior to the Effective Date of the Plan or a predecessor plan. b. ☒ N/A.  
c. ☐ Service prior to the time an Employee attained age 18. d. ☒ N/A.

D9 PLAN SHALL RECOGNIZE SERVICE WITH PREDECESSOR EMPLOYER

a. ☐ No.  
b. ☒ Yes: Years of Service with Admont Plastics shall be recognized for the purpose of this Plan.

**NOTE:** If the predecessor Employer maintained this qualified Plan, then Years of Service with such predecessor Employer shall be recognized pursuant to Section 1.74 and b. must be marked.

D10 NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.42) means:

a. ☐ the date a Participant attains his \_\_\_\_ birthday.  
(not to exceed 65th)  
b. ☒ the later of the date a Participant attains his 65th birthday (not to exceed 65th) or the c. 5th (not to exceed 5th) anniversary of the first day of the Plan Year in which participation in the Plan commenced.

D11 NORMAL RETIREMENT DATE (Plan Section 1.43) shall commence:

a. ☐ as of the Participant's "NRA."

OR (must select b. or c. AND 1. or 2.)

b. ☐ as of the first day of the month...

c. ☒ as of the Anniversary Date...

1. ☒ coinciding with or next following the Participant's "NRA."

2. ☐ nearest the Participant's "NRA."

D12 EARLY RETIREMENT DATE (Plan Section 1.12) means the:

a. ☒ No Early Retirement provision provided.

b. ☐ date on which a Participant...

c. ☐ first day of the month coinciding with or next following the date on which a Participant...

d. ☐ Anniversary Date coinciding with or next following the date on which a Participant...

AND, if b., c. or d. was selected...

1. ☐ attains his \_\_\_\_ birthday and has

2. ☐ completed at least \_\_\_\_ Years of Service.

**CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

E1 a. COMPENSATION (Plan Section 1.9) with respect to any Participant means:

1. ☐ "415 Compensation."
2. ☒ Compensation reportable as wages on Form W-2.

b. COMPENSATION shall be

1. ☒ actually paid (must be selected if Plan is integrated)
2. ☐ accrued

c. FOR PURPOSES OF THIS SECTION E1, Compensation shall be based on:

1. ☒ the Plan Year.
2. ☐ the Fiscal Year coinciding with or ending within the Plan Year.
3. ☐ the Calendar Year coinciding with or ending within the Plan Year.

**NOTE:** The Limitation Year shall be the same as the year on which Compensation is based.

d. HOWEVER, for an Employee's first year of participation, Compensation shall be recognized as of:

1. ☒ the first day of the Plan Year.
2. ☐ the date the Participant entered the Plan.

e. IN ADDITION, COMPENSATION and "414(s) Compensation"

1. ☐ shall
2. ☒ shall not include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 402(a)(8), 402(h)(1)(B), or 403(b).



E2 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

**FOR A NON-INTEGRATED PLAN**

- a. (X) \*0 % of each Participant's Compensation.  
(25% Maximum)

**FOR AN INTEGRATED PLAN**

- b. ( ) \_\_\_\_\_ % of each Participant's TOTAL Compensation, plus  
c. \_\_\_\_\_ % (see Note below) of such Compensation in  
excess of:
- d. ( ) The Taxable Wage Base.  
e. ( ) The greater of \$10,000 or 20% of the Taxable  
Wage Base.  
f. ( ) \_\_\_\_\_ % of the Taxable Wage Base.  
g. ( ) \$\_\_\_\_\_.

**NOTE:** The excess percentage specified in c. above may not exceed the lesser of the following limits and shall be adjusted each year as appropriate.

1. The base percentage specified in b. above.
2. 5.7%
3. 4.3% if f. or g. above is more than 20% and less than or equal to 80% of the Taxable Wage Base.
4. 5.4% if f. or g. above is less than 100% and more than 80% of the Taxable Wage Base.

E3 FORFEITURES (Plan Section 4.3(e))

- a. (X) Forfeitures shall be used to reduce the Employer's contribution under the Plan
- b. ( ) Forfeitures shall be allocated to all Participants eligible to share in the allocations in the same proportion that each Participant's Compensation for the year bears to the Compensation of all Participants for such year.

\*Effective June 1, 1991

E4 ALLOCATIONS TO TERMINATED PARTICIPANTS (Plan Section 4.3(k))

With respect to Plan Years beginning prior to 1990, any Participant who terminated employment during the Plan Year for reasons other than death, Total and Permanent Disability or retirement:

- a. ☒ shall share in the allocations of Contributions and Forfeitures provided such Participant completed a Year of Service.
- b. ☐ shall not share in the allocations of Contributions and Forfeitures regardless of Hours of Service.

**NOTE:** The Plan provides that with respect to Plan Years beginning after 1989, a terminated Participant shall share in allocations provided such Participant completed more than 500 Hours of Service.

E5 ALLOCATIONS OF EARNINGS (Plan Section 4.3(c))

Allocations of earnings with respect to amounts contributed to the Plan after the previous Anniversary Date or other valuation date shall be determined...

- a. ☒ by using a weighted average.
- b. ☐ by treating one-half of all such contributions as being a part of the Participant's nonsegregated account balance as of the previous Anniversary Date or valuation date.
- c. ☐ by using the method specified in Section 4.3(c).
- d. ☐ other \_\_\_\_\_

E6 LIMITATIONS ON ALLOCATIONS (Plan Section 4.4)

a. If any Participant is or was covered under another qualified defined contribution plan maintained by the Employer, or if the Employer maintains a welfare benefit fund, as defined in Code Section 419(e), or an individual medical account, as defined in Code Section 415(1)(2), under which amounts are treated as Annual Additions with respect to any Participant in this Plan:

- 1. ☐ N/A.
- 2. ☒ The provisions of Section 4.4(b) of the Plan will apply.
- 3. ☐ Provide the method under which the Plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.

**NOTE:** If a.3 above is selected, an Employer may not rely on the opinion letter issued by the Internal Revenue Service that this Plan is qualified under Code Section 401.

b. If any Participant is or ever has been a Participant in a defined benefit plan maintained by the Employer:

1. ☒ N/A.
2. ☐ In any Limitation Year, the Annual Additions credited to the Participant under this Plan may not cause the sum of the Defined Benefit Plan Fraction and the Defined Contribution Fraction to exceed 1.0. If the Employer's contribution that would otherwise be made on the Participant's behalf during the limitation year would cause the 1.0 limitation to be exceeded, the rate of contribution under this Plan will be reduced so that the sum of the fractions equals 1.0. If the 1.0 limitation is exceeded because of an Excess Amount, such Excess Amount will be reduced in accordance with Section 4.4(a)(4) of the Plan.
3. ☐ Provide the method under which the Plans involved will satisfy the 1.0 limitation in a manner that precludes Employer discretion.

E7 DISTRIBUTIONS UPON DEATH (Plan Section 6.6(h))  
Distributions upon the death of a Participant prior to receiving any benefits shall...

- a. ☒ be made pursuant to the election of the Participant or beneficiary.
- b. ☐ begin within 1 year of death for a designated beneficiary and be payable over the life (or over a period not exceeding the life expectancy) of such beneficiary, except that if the beneficiary is the Participant's spouse, begin within the time the Participant would have attained age 70 1/2.
- c. ☐ be made within 5 years of death for all beneficiaries.
- d. ☐ other \_\_\_\_\_

E8 LIFE EXPECTANCIES (Plan Section 6.5(f)) for minimum distributions required pursuant to Code Section 401(a)(9) shall...

- a. ☒ be recalculated at the Participant's election.
- b. ☐ be recalculated.
- c. ☐ not be recalculated.

E9 CONDITIONS FOR DISTRIBUTIONS UPON TERMINATION

Distributions upon termination of employment pursuant to Section 6.4(a) of the Plan shall not be made unless the following conditions have been satisfied:

- a. ☒ N/A. Immediate distributions may be made at Participant's election.
- b. ☐ The Participant has incurred \_\_\_\_ 1-Year Break(s) in Service.
- c. ☐ The Participant has reached his or her Early or Normal Retirement Age.
- d. ☐ Distributions may be made at the Participant's election on or after the Anniversary Date following termination of employment.
- e. ☐ Other \_\_\_\_

E10 FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in annuities and (select all that apply)...

- a. ☐ N/A. No other forms
- b. ☐ in lump sums.
- c. ☒ in lump sums or installments.

AND, may be made in...

- a. ☒ cash only (except for insurance or annuity contracts).
- b. ☐ cash or property.

**TOP HEAVY REQUIREMENTS**

- F1 TOP HEAVY DUPLICATIONS (Plan Section 4.3(i)): When a Non-Key Employee is a Participant in this Plan and a Defined Benefit Plan maintained by the Employer, indicate which method shall be utilized to avoid duplication of top heavy minimum benefits.
- a. ☒ (X) The Employer does not maintain a Defined Benefit Plan.
  - b. ☐ ( ) A minimum, non-integrated contribution of 5% of each Non-Key Employee's total Compensation shall be provided in this Plan, as specified in Section 4.3(i). (The Defined Benefit and Defined Contribution Fractions will be computed using 100% if this choice is selected.)
  - c. ☐ ( ) A minimum, non-integrated contribution of 7 1/2% of each Non-Key Employee's total Compensation shall be provided in this Plan, as specified in Section 4.3(i). (If this choice is selected, the Defined Benefit and Defined Contribution Fractions will be computed using 125% for all Plan Years in which the Plan is Top Heavy, but not Super Top Heavy.)
  - d. ☐ ( ) Specify the method under which the Plans will provide top heavy minimum benefits for Non-Key Employees that will preclude Employer discretion and avoid inadvertent omissions, including any adjustments required under Code Section 415(e).
- F2 PRESENT VALUE OF ACCRUED BENEFIT (Plan Section 2.2) for Top Heavy purposes where the Employer maintains a Defined Benefit Plan in addition to this Plan, shall be based on...
- a. ☒ (X) N/A. The Employer does not maintain a defined benefit plan.
  - b. ☐ ( ) Interest Rate: \_\_\_\_\_  
Mortality Table: \_\_\_\_\_
- F3 TOP HEAVY DUPLICATIONS: Employer maintaining two (2) or more Defined Contribution Plans (other than paired plans).
- a. ☒ (X) N/A.
  - b. ☐ ( ) A minimum, non-integrated contribution of 3% of each Non-Key Employee's total Compensation shall be provided in the Money Purchase Plan (or other plan subject to Code Section 412), where the Employer maintains two (2) or more non-paired Defined Contribution Plans.
  - c. ☐ ( ) Specify the method under which the Plans will provide top heavy minimum benefits for Non-Key Employees that will preclude Employer discretion and avoid inadvertent omissions, including any adjustments required under Code Section 415(e).

F4 IS THIS A PAIRED PLAN?

a. (X) Yes. Name the Plan(s) with which this is paired.

Admont, Inc. Profit Sharing Plan

b. ( ) No or N/A.

**MISCELLANEOUS**

G1 LOANS TO PARTICIPANTS (Plan Section 7.4)

- a. ☒ Yes, loans may be made up to \$50,000 or 1/2 Vested interest.
- b. ☐ No, loans may not be made.

If YES, (check all that apply)...

- c. ☐ loans shall be treated as a Directed Investment.
- d. ☐ loans shall only be made for hardship or financial necessity.
- e. ☐ the minimum loan shall be \$1,000.
- f. ☐ \$10,000 de minimis loans may be made regardless of Vested interest. (If selected, Plan may need security in addition to Vested interest.)

**NOTE:** Department of Labor Regulations require the adoption of a **separate** written loan program setting forth the requirements outlined in Plan Section 7.4.

G2 DIRECTED INVESTMENT ACCOUNTS (Plan Section 4.8) are permitted for the interest in any one or more accounts.

- a. ☐ Yes, regardless of the Participant's Vested interest in the Plan.
- b. ☐ Yes, but only with respect to the Participant's Vested interest in the Plan.
- c. ☐ Yes, but only with respect to those accounts which are 100% Vested.
- d. ☒ No directed investments are permitted.

G3 TRANSFERS FROM QUALIFIED PLANS (Plan Section 4.6)

- a. ☒ Yes, transfers from qualified plans (and rollovers) will be allowed.
- b. ☐ No, transfers from qualified plans (and rollovers) will not be allowed.

**AND,** transfers shall be permitted...

- c. ☐ from any Employee, even if not a Participant.
- d. ☒ from Participants only.

G4 LIFE INSURANCE (Plan Section 7.2(d)) may be purchased with Plan contributions.

- a. ☒ No life insurance may be purchased.
- b. ☐ Yes, at the option of the Administrator.
- c. ☐ Yes, at the option of the Participant.

**AND**, the purchase of initial or additional life insurance shall be subject to the following limitations: (select all that apply)

- d. ☐ N/A, no limitations.
- e. ☐ each initial Contract shall have a minimum face amount of \$\_\_\_\_\_.
- f. ☐ each additional Contract shall have a minimum face amount of \$\_\_\_\_\_.
- g. ☐ the Participant has completed \_\_\_\_\_ Years of Service.
- h. ☐ the Participant has completed \_\_\_\_\_ Years of Service while a Participant in the Plan.
- i. ☐ the Participant is under age \_\_\_\_\_ on the Contract issue date.
- j. ☐ the maximum amount of all Contracts on behalf of a Participant shall not exceed \$\_\_\_\_\_.
- k. ☐ the maximum face amount of life insurance shall be \$\_\_\_\_\_.



An Employer who has ever maintained or who later adopts any plan in addition to this Plan (including a welfare benefit fund, as defined in Code Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for Key Employees, as defined in Code Section 419A(d)(3) or an individual medical account, as defined in Code Section 415(1)(2)) (other than paired plan #01-002; #01-006) may not rely on the opinion letter issued by the National Office of the Internal Revenue Service as evidence that this Plan is qualified under Code Section 401. If the Employer who adopts or maintains multiple plans wishes to obtain reliance that the Employer's plan(s) are qualified, application for a determination letter should be made to the appropriate key district director of Internal Revenue.

This Adoption Agreement may be used only in conjunction with basic Plan document #01. This Adoption Agreement and the basic Plan document shall together be known as Reish & Luftman Standardized Money Purchase Plan and Trust #01-004.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Reish & Luftman will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan provided this Plan has been acknowledged by Reish & Luftman or its authorized representative. Furthermore, in order to be eligible to receive such notification, we agree to notify Reish & Luftman of any change in address.

IN WITNESS WHEREOF, the Trustee hereby cause this Plan to be executed on ~~October~~ Nov 5, 1999. Furthermore, this Plan may not be used unless acknowledged by Reish & Luftman or its authorized representative.

TRUSTEE FOR THE  
ADMONT, INC. MONEY PURCHASE PENSION PLAN

  
Pat Cochrane

This Plan may not be used, and shall not be deemed to be a Regional Prototype Plan, unless an authorized representative of Reish & Luftman has acknowledged the use of the Plan. Such acknowledgment is for administrative purposes only. It acknowledges that the Employer is using the Plan but does not represent that this Plan, including the choices selected on the Adoption Agreement, has been reviewed by a representative of the sponsor or constitutes a qualified retirement plan.

Reish & Luftman

By:

  
Martin M. Heming, Esq.

**AMENDMENT**  
**TO THE**  
**ADMONT, INC.**  
**MONEY PURCHASE PENSION PLAN**

Prepared by:

REISH & LUFTMAN  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
11755 Wilshire Boulevard, Tenth Floor  
Los Angeles, California 90025  
(310) 478-5656

**AMENDMENT  
TO THE  
ADMONT, INC.  
MONEY PURCHASE PENSION PLAN**

The following amendment to the Admont, Inc. Money Purchase Pension Plan ("Plan") is hereby adopted to read as follows:

- (1) Section 1.9, the definition of "Compensation", is amended for Plan Years beginning after December 31, 1996, to read as follows:

"1.9 "Compensation" with respect to any Participant means such Participant's compensation as specified by the Employer in E1 of the Adoption Agreement that is paid during the determination year. Except as provided elsewhere in this plan, the determination period shall be the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the determination period shall be the plan year. For any Self-Employed Individual, compensation shall be equal to his Earned Income.

In addition, if specified in the Adoption Agreement, Compensation for all Plan purposes shall also include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 402(a)(8), 402(h)(1)(B), or 403(b).

For Plan Years beginning on or after January 1, 1989, and before January 1, 1994, the annual compensation for each participant taken into account for determining all benefits provided under the plan for any plan year shall not exceed \$200,000. This limitation shall be adjusted by the Secretary at the same time and in the same manner as under section 415(d) of the Code, except that the dollar increase in effect on January 1 of any calendar year is effective for plan years beginning in such calendar year and the first adjustment to the \$200,000 limitation is effective on January 1, 1990.

For Plan Years beginning on or after January 1, 1994, the annual compensation for each participant taken into account for determining all benefits provided under the plan for any plan year shall not exceed \$150,000, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year.

If a determination period consists of fewer than 12 months the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12.

If compensation for any prior determination period is taken into account in determining a participant's allocations for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. For this purpose, in determining allocations in plan years beginning on or after January 1, 1989, the annual compensation limit in effect for determination periods beginning before that date is \$200,000. In addition, in determining allocations in plan years beginning on or after January 1, 1994, the annual compensation limit in effect for determination periods beginning before that date is \$150,000."

- (2) The definition of "Family Member" in Section 1.21 is hereby deleted in its entirety effective for Plan Years beginning after December 31, 1996.
- (3) Section 1.28, the definition of "Highly Compensated Employee," is amended for Plan Years beginning after December 31, 1996 to read as follows:

"1.28 "Highly Compensated Employee" means an Employee described in Code Section 414(q) and the Regulations thereunder, and generally means an Employee who performed services for the Employer during the "determination year" and is in one or more of the following groups:

(a) Employees who at any time during the "determination year" or "look-back year" were "five percent owners" of the Employer.

(b) Employees who received "415 Compensation" during the "look-back year" from the Employer in excess of \$80,000 and were in the Top Paid Group of Employees during the "look-back year."

The "determination year" shall be the Plan Year for which testing is being performed, and the "look-back year" shall be the immediately preceding twelve-month period.

For purposes of this Section, the determination of "415 Compensation" shall be made by including amounts which are contributed by the Employer pursuant to a salary reduction agreement and which are not includible in the gross income of the Participant under Code Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and Employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions. Additionally, the dollar threshold amount specified in (b) above shall be adjusted at such time and in the same manner as under Code Section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.

In determining who is a Highly Compensated Employee, Employees who are non-resident aliens and who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer constituting United States source income within the meaning of Code Section 861(a)(3) shall not be treated as Employees. Additionally, all Affiliated Employers shall be taken into account as a single employer and Leased Employees within the

meaning of Code Section 414(n)(2) and 414(o)(2) shall be considered Employees unless such Leased Employees are covered by any qualified plan maintained by the Employer. The exclusion of Leased Employees for this purpose shall be applied on a uniform and consistent basis for all of the Employer's retirement plans. Highly Compensated Former Employees shall be treated as Highly Compensated Former Employees without regard to whether they performed services during the "determination year."

- (4) Section 1.37, the definition of "Leased Employee," is amended effective for Plan Years beginning after December 31, 1996 to read as follows:

"1.37 "Leased Employee" means any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization" has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

A leased employee shall not be considered as Employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code Sections 125, 402(a)(8), 402(h), or 403(b); (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient's nonhighly compensated workforce."

- (5) Section 1.40, the definition of "Non-Highly Compensated Participant", is amended for Plan Years beginning December 31, 1996 as follows:

"1.40 "Non-Highly Compensated Participant" means any Participant who is neither a Highly Compensated Employee."

- (6) Article One is amended, effective December 12, 1994, by the addition of a new definition at the end thereof to read:

"1.75 **USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

- (7) Any reference in this Plan and Trust to family aggregation rules is stricken effective for Plan Years beginning after December 31, 1996.

- (8) Section 4.4(f)(4) is amended effective for Plan Years beginning after December 31, 1996 to read as follows:

"(4) Defined contribution dollar limitation means \$30,000, as described under Code Section 415(c)(1)(A), which shall be adjusted annually as provided in Code Section 415(d) pursuant to the Regulations. The adjusted limitation is effective as of January 1st of each calendar year and is applicable to "limitation years" ending with or within that calendar year."

- (9) The last paragraph of Section 6.4(a) is amended for Plan Years beginning after August 6, 1997 to read as follows:

"Notwithstanding the above, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 and has never exceeded \$5,000 at the time of any prior distribution, the Administrator shall direct the Trustee to cause the entire Vested benefit to be paid to such Participant in a single lump sum without regard to the consent of the Participant or the Participant's spouse. A Participant's Vested benefit shall not include Qualified Voluntary Employee Contributions within the meaning of Code Section 72(o)(5)(B) for Plan Years beginning prior to January 1, 1989."

- (10) Section 6.5(a)(2) is amended for Plan Years beginning after December 31, 1996 by the addition of the following paragraph at the end thereof to read as follows:

"Notwithstanding the above, if the Participant elects (with spousal consent) to waive the requirement that the written explanation be provided at least 30 days before the Annuity Starting Date, the election period shall be extended to the 30th day after the date on which such explanation is provided to the Participant."

- (11) Section 6.5(a)(5) is amended for Plan Years beginning after December 31, 1996 by the addition of the following paragraph at the end thereof to read:

"Notwithstanding the foregoing, a Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date; or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the joint and survivor annuity is provided to the Participant."

- (12) Section 6.5(b) is amended for Plan Years beginning after December 31, 1996 by the addition of sub-section 6.5(b)(4) at the end thereof as follows:

"(4) Provide married Participants with a notice explaining the joint and survivor annuity form as well as an election form (if the distribution is more than \$5,000). The Participant must be given the option to decide whether or not to waive the joint and survivor annuity within the 90 days period prior to the "annuity starting date" (the first day of the first period for which an amount is paid as an annuity or any other form). However, the 90 day period

may be extended to the 30th day after the Participant is provided the explanation of the joint and survivor annuity. Unmarried Participants should be furnished with a notice explaining the straight life annuity form as well as an election form (if the distribution is more than \$5,000) within the same time periods as married Participants.”

- (13) Section 6.5(c) is amended in its entirety for Plan Years beginning after August 6, 1997 to read:

“(c) The present value of a Participant’s joint and survivor annuity derived from Employer and Employee contributions may not be paid without his written consent if the value exceeds, or has never exceeded, \$5,000 at the time of any prior distribution. Further, the spouse of a Participant must consent in writing to any immediate distribution. Any written consent required by this Section 6.5(c) must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(a)(2).”

- (14) Section 6.5(d) is amended for Plan Years beginning after August 6, 1997 as follows:

“(d) Any distribution to a Participant who has a benefit which exceeds, or has ever exceeded, \$5,000 at the time of any prior distribution shall require such Participant’s consent if such distribution commences prior to the later of his Normal Retirement Age or age 62. With regard to this required consent.”

- (15) Section 6.5(e)(1) is amended in its entirety for Plan Years beginning after December 31, 1996 as follows:

“(1) A Participant’s benefits shall be distributed or must begin to be distributed to him not later than April 1st of the calendar year following the later of (i) the calendar year in which the Participant attains age 70-1/2, or (ii) the calendar year in which the Participant retires, provided, however, that this clause (ii) shall not apply in the case of a Participant who is a “five percent (5%) owner” at any time during the first (5) Plan Year period ending in the calendar year in which he attains age 70-1/2, or in the case of a Participant who becomes a “five percent (5%) owner” during any subsequent Plan Year, clause (ii) shall no longer apply and the required beginning date shall be the April 1st of the calendar year following the calendar year in which such subsequent Plan Year ends. Such distributions shall be equal to or greater than any required distribution. Notwithstanding the foregoing, clause (ii) above shall not apply to any Participant unless the Participant had attained age 70-1/2 before January 1, 1988 and was not a “five percent (5%) owner” at any time during the Plan Year ending with or within the calendar year in which the Participant attained age 66-1/2 or any subsequent Plan Year.”

- (16) Section 6.6(f) is amended for Plan Years beginning after August 6, 1997 to read as follows:



"If the present value of the Pre-Retirement Survivor Annuity derived from Employer and Employer contributions does not exceed \$5,000 and has never exceeded \$5,000 at the time of any prior distribution, the Administrator shall direct the immediate distribution of such amount to the Participant's spouse. No distribution may be made under the preceding sentence after the Annuity Starting Date unless the spouse consents in writing. If the value exceeds, or has even exceeded, \$5,000 at the time of any prior distribution, an immediate distribution of the entire amount of the Pre-Retirement Survivor Annuity may be made to the surviving spouse, provided such surviving spouse consents in writing to such distribution. Any written consent required under this paragraph must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(a)(2)."

- (17) Section 7.4 is amended, effective December 12, 1994, by the addition of the following paragraph at the end thereof to read as follows:

"Notwithstanding the foregoing, loan repayments will be suspended under this Plan as permitted under Code Section 414(u)(4)."

Executed at Los Angeles, California on October 22, 1999.

TRUSTEE:

ADMONT, INC. MONEY PURCHASE PENSION PLAN

  
Pat Cochrane

ADOPTION AGREEMENT FOR  
REISH & LUFTMAN  
STANDARDIZED PROFIT SHARING  
PLAN AND TRUST  
(WITH PAIRING PROVISIONS)

The undersigned Employer adopts the Reish & Luftman Standardized Profit Sharing Plan and Trust for those Employees who shall qualify as Participants hereunder, to be known as the

A1 Admont, Inc. Profit Sharing Plan  
(Enter Plan Name)

It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

CAUTION: The failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION

B1 Name of Employer Admont, Inc.

B2 Address See Trustee Address

City

State

Zip

Telephone \_\_\_\_\_

B3 Employer Identification Number \_\_\_\_\_

B4 Date Business Commenced \_\_\_\_\_

B5 TYPE OF ENTITY

- a. ☐ S Corporation
- b. ☐ Professional Service Corporation
- c. ☒ Corporation
- d. ☐ Sole Proprietorship
- e. ☐ Partnership
- f. ☐ Other \_\_\_\_\_

AND, is the Employer a member of...

- g. a controlled group? ☐ Yes ☒ No
- h. an affiliated service group? ☐ Yes ☒ No

8/18/97 "2"

B6 NAME(S) OF TRUSTEE(S)

- a. Pat Cochrane
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_

B7 TRUSTEES' ADDRESS

a. ☐ Use Employer Address

b. ☒ 3520 Medford Street  
Street  
Los Angeles California 90036  
City State Zip

B8 LOCATION OF EMPLOYER'S PRINCIPAL OFFICE:

a. ☒ State b. ☐ Commonwealth of c. California and  
this Plan and Trust shall be governed under the same.

B9 EMPLOYER FISCAL YEAR means the 12 consecutive month period:

Commencing on a. June 1st (e.g., January 1st) and  
month day

ending on b. May 31st,  
month day

PLAN INFORMATION

C1 EFFECTIVE DATE

This Adoption Agreement of the Reish & Luftman Standardized Profit Sharing Plan and Trust shall:

- a. ☐ establish a new Plan effective as of \_\_\_\_\_  
(hereinafter called the "Effective Date").
- b. ☒ constitute an amendment and restatement in its entirety of a previously established qualified Plan of the Employer which was effective June 8, 1978  
(hereinafter called the "Effective Date"). Except as specifically provided in the Plan, the effective date of this amendment and restatement is June 1, 1989  
(For TRA '86 amendments, enter the first day of the first Plan Year beginning in 1989).

C2 PLAN YEAR means the 12 consecutive month period:

Commencing on a. June 1st (e.g., January 1st) and  
ending on b. May 31st.

IS THERE A SHORT PLAN YEAR?

- c. ☒ No
- d. ☐ Yes, beginning \_\_\_\_\_  
and ending \_\_\_\_\_.

C3 ANNIVERSARY DATE of Plan (Annual Valuation Date)

- a. May 31st  
month day

C4 PLAN NUMBER assigned by the Employer (select one)

- a. ☐ 001    b. ☒ 002    c. ☐ 003    d. ☐ Other \_\_\_\_\_

C5 NAME OF PLAN ADMINISTRATOR (Document provides for the Employer to appoint an Administrator. If none is named, the Employer will become the Administrator.)

a. ☒ Employer (Use Employer Address)

b. ☐ Name \_\_\_\_\_

Address ☐ Use Employer Address

\_\_\_\_\_

\_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip

Telephone \_\_\_\_\_

Administrator's I.D. Number \_\_\_\_\_

C6 PLAN'S AGENT FOR SERVICE OF LEGAL PROCESS

a. ☒ Employer (Use Employer Address)

b. ☐ Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

**ELIGIBILITY, VESTING AND RETIREMENT AGE**

D1 ELIGIBLE EMPLOYEES (Plan Section 1.15) shall mean all Employees who have satisfied the eligibility requirements except those checked below:

- a. ☒ N/A. No exclusions.
- b. ☐ Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer.
- c. ☐ Employees who are nonresident aliens who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code Section 861(a)(3)).

NOTE: For purposes of this section, the term Employee shall include all Employees of this Employer, any Affiliated Employer, and any leased employees deemed to be Employees under Code Section 414(n) or 414(o).

D2 HOURS OF SERVICE (Plan Section 1.31) will be determined on the basis of the method selected below. Only one method may be selected. The method selected will be applied to all Employees covered under the Plan.

- a. ☒ On the basis of actual hours for which an Employee is paid or entitled to payment.
- b. ☐ On the basis of days worked. An Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.
- c. ☐ On the basis of weeks worked. An Employee will be credited forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.
- d. ☐ On the basis of semi-monthly payroll periods. An Employee will be credited ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.
- e. ☐ On the basis of months worked. An Employee will be credited one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

- D3 CONDITIONS OF ELIGIBILITY (Plan Section 3.1)  
(Check either a OR b and c, and if applicable, d)

Any Eligible Employee will be eligible to participate in the Plan if such Eligible Employee has satisfied the service and age requirements, if any, specified below:

a. ☐ NO AGE OR SERVICE REQUIRED.

b. ☒ SERVICE REQUIREMENT. (may not exceed 2 years; if more than one Year of Service is required, 100% immediate vesting is mandatory).

1. ☐ None
2. ☐ 1/2 Year of Service
3. ☐ 1 Year of Service
4. ☐ 1 1/2 Years of Service
5. ☐ 2 Years of Service
6. ☒ Other 6 Months of Service

NOTE: If the Year(s) of Service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year. If expressed in Months of Service, an Employee will not be required to complete any specified number of Hours of Service in a particular month.

c. ☒ AGE REQUIREMENT (may not exceed 21)

1. ☐ N/A - No Age Requirement.
2. ☒ 20 1/2
3. ☐ 21
4. ☐ Other \_\_\_\_\_

d. ☐ FOR NEW PLANS ONLY - Regardless of any of the above age or service requirements, any Eligible Employee who was employed on the Effective Date of the Plan shall be eligible to participate hereunder and shall enter the Plan as of such date. (This option may not be selected if more than one (1) Year Service is required above.)

D4 EFFECTIVE DATE OF PARTICIPATION (Plan Section 3.2)

An Eligible Employee shall become a Participant as of:

- a. ( ) the first day of the Plan Year in which he met the requirements.
- b. ( ) the first day of the Plan Year in which he met the requirements, if he met the requirements in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if he met the requirements in the last 6 months of the Plan Year.
- c. ( ) the earlier of the first day of the seventh month or the first day of the Plan Year coinciding with or next following the date on which he met the requirements.
- d. ( ) the first day of the Plan Year next following the date on which he met the requirements. (Eligibility must be 1/2 Year of Service or less or 1 1/2 Years of Service or less if 100% immediate vesting is selected and age 20 1/2 or less.)
- e. (X) the first day of the month coinciding with or next following the date on which he met the requirements.
- f. ( ) Other: \_\_\_\_\_, provided that an Employee who has satisfied the maximum age and service requirements that are permissible in Section D3 above and who is otherwise entitled to participate, shall commence participation no later than the earlier of (a) 6 months after such requirements are satisfied, or (b) the first day of the first Plan Year after such requirements are satisfied, unless the Employee separates from service before such participation date.



## D5 VESTING OF PARTICIPANT'S INTEREST (Plan Section 6.4(b))

The vesting schedule, based on number of Years of Service, shall be as follows:

a. ( ) 100% upon entering Plan. (Required if eligibility requirement is greater than one (1) Year of Service.)

b. ( ) 0-2 years 0%  
3 year 100%

c. ( ) 0-4 years 0%  
5 years 100%

d. (X) 0-1 year 0%  
2 years 20%  
3 years 40%  
4 years 60%  
5 years 80%  
6 years 100%

e. ( ) 1 year 25%  
2 years 50%  
3 years 75%  
4 years 100%

f. ( ) 1 year 20%  
2 years 40%  
3 years 60%  
4 years 80%  
5 years 100%

g. ( ) 0-2 years 0%  
3 years 20%  
4 years 40%  
5 years 60%  
6 years 80%  
7 years 100%

h. ( ) Other - Must be at least as liberal as either c. or g. above.

Years of Service	Percentage
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## D6 FOR AMENDED PLANS (Plan Section 6.4(f)) If the vesting schedule has been amended to a less favorable schedule, enter the pre-amended schedule below:

a. ( ) Vesting schedule has not been amended or amended schedule is more favorable in all years.

Years of Service	Percentage
3	25%
4	50%
5	75%
6	100%
_____	_____
_____	_____
_____	_____

- D7 TOP HEAVY VESTING (Plan Section 6.4(c)) If this Plan becomes a Top Heavy Plan, the following vesting schedule, based on number of Years of Service, for such Plan Year and each succeeding Plan Year, whether or not the Plan is a Top Heavy Plan, shall apply and shall be treated as a Plan amendment pursuant to this Plan. Once effective, this schedule shall also apply to any contributions made prior to the effective date of Code Section 416 and/or before the Plan became a Top Heavy Plan.

a. ☒ N/A (D5a, b, d, e or f was selected)

b. <input type="checkbox"/> 0-1 year	0%	c. <input type="checkbox"/> 0-2 years	0%
2 years	20%	3 years	100%
3 years	40%		
4 years	60%		
5 years	80%		
6 years	100%		

NOTE: This section does not apply to the Account balances of any Participant who does not have an Hour of Service after the Plan has initially become top heavy. Such Participant's Account balance attributable to Employer contributions and Forfeitures will be determined without regard to this section.

- D8 VESTING (Plan Section 6.4(h)) In determining Years of Service for vesting purposes, Years of Service attributable to the following shall be EXCLUDED:

a. ☐ Service prior to the Effective Date of the Plan or a predecessor plan. b. ☒ N/A.  
c. ☐ Service prior to the time an Employee attained age 18. d. ☒ N/A.

- D9 PLAN SHALL RECOGNIZE SERVICE WITH PREDECESSOR EMPLOYER

a. ☐ No.  
b. ☒ Yes: Years of Service with Admont Plastics shall be recognized for the purpose of this Plan.

NOTE: If the predecessor Employer maintained this qualified Plan, then Years of Service with such predecessor Employer shall be recognized pursuant to Section 1.74 and b. must be marked.

- D10 NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.42) means:

a. ☐ the date a Participant attains his \_\_\_\_ birthday. (not to exceed 65th)  
b. ☒ the later of the date a Participant attains his 65th birthday (not to exceed 65th) or the c. 5th (not to exceed 5th) anniversary of the first day of the Plan Year in which participation in the Plan commenced.

D11 NORMAL RETIREMENT DATE (Plan Section 1.43) shall commence:

a. ☐ as of the Participant's "NRA."

OR (must select b. or c. AND 1. or 2.)

b. ☐ as of the first day of the month...

c. ☒ as of the Anniversary Date...

1. ☒ coinciding with or next following the Participant's "NRA."

2. ☐ nearest the Participant's "NRA."

D12 EARLY RETIREMENT DATE (Plan Section 1.12) means the:

a. ☒ No Early Retirement provision provided.

b. ☐ date on which a Participant...

c. ☐ first day of the month coinciding with or next following the date on which a Participant...

d. ☐ Anniversary Date coinciding with or next following the date on which a Participant...

AND, if b., c. or d. was selected...

1. ☐ attains his \_\_\_\_ birthday and has

2. ☐ completed at least \_\_\_\_ Years of Service.

**CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

E1 a. COMPENSATION (Plan Section 1.9) with respect to any Participant means:

1. ☐ "415 Compensation."
2. ☒ Compensation reportable as wages on Form W-2.

b. COMPENSATION shall be

1. ☒ actually paid (must be selected if Plan is integrated)
2. ☐ accrued

c. FOR PURPOSES OF THIS SECTION E1, Compensation shall be based on:

1. ☒ the Plan Year.
2. ☐ the Fiscal Year coinciding with or ending within the Plan Year.
3. ☐ the Calendar Year coinciding with or ending within the Plan Year.

NOTE: The Limitation Year shall be the same as the year on which Compensation is based.

d. HOWEVER, for an Employee's first year of participation, Compensation shall be recognized as of:

1. ☒ the first day of the Plan Year.
2. ☐ the date the Participant entered the Plan.

e. IN ADDITION, COMPENSATION and "414(s) Compensation"

1. ☐ shall
2. ☒ shall not include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 402(a)(8), 402(h)(1)(B), or 403(b).

E2 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

FOR A NON-INTEGRATED PLAN

- a. (X) \*0 % of each Participant's Compensation.  
(25% Maximum)

FOR AN INTEGRATED PLAN

- b. ( ) \_\_\_\_\_ % of each Participant's TOTAL Compensation, plus  
c. \_\_\_\_\_ % (see Note below) of such Compensation in  
excess of:
- d. ( ) The Taxable Wage Base.  
e. ( ) The greater of \$10,000 or 20% of the Taxable  
Wage Base.  
f. ( ) \_\_\_\_\_ % of the Taxable Wage Base.  
g. ( ) \$\_\_\_\_\_.

NOTE: The excess percentage specified in c. above may not exceed the lesser of the following limits and shall be adjusted each year as appropriate.

1. The base percentage specified in b. above.
2. 5.7%
3. 4.3% if f. or g. above is more than 20% and less than or equal to 80% of the Taxable Wage Base.
4. 5.4% if f. or g. above is less than 100% and more than 80% of the Taxable Wage Base.

E3 FORFEITURES (Plan Section 4.3(e))

- a. (X) Forfeitures shall be used to reduce the Employer's contribution under the Plan
- b. ( ) Forfeitures shall be allocated to all Participants eligible to share in the allocations in the same proportion that each Participant's Compensation for the year bears to the Compensation of all Participants for such year.

\*Effective June 1, 1991

- E4 ALLOCATIONS TO TERMINATED PARTICIPANTS (Plan Section 4.3(k))
- With respect to Plan Years beginning prior to 1990, any Participant who terminated employment during the Plan Year for reasons other than death, Total and Permanent Disability or retirement:
- a. ☒ shall share in the allocations of Contributions and Forfeitures provided such Participant completed a Year of Service.
  - b. ☐ shall not share in the allocations of Contributions and Forfeitures regardless of Hours of Service.
- NOTE: The Plan provides that with respect to Plan Years beginning after 1989, a terminated Participant shall share in allocations provided such Participant completed more than 500 Hours of Service.
- E5 ALLOCATIONS OF EARNINGS (Plan Section 4.3(c))
- Allocations of earnings with respect to amounts contributed to the Plan after the previous Anniversary Date or other valuation date shall be determined...
- a. ☒ by using a weighted average.
  - b. ☐ by treating one-half of all such contributions as being a part of the Participant's nonsegregated account balance as of the previous Anniversary Date or valuation date.
  - c. ☐ by using the method specified in Section 4.3(c).
  - d. ☐ other \_\_\_\_\_
- E6 LIMITATIONS ON ALLOCATIONS (Plan Section 4.4)
- a. If any Participant is or was covered under another qualified defined contribution plan maintained by the Employer, or if the Employer maintains a welfare benefit fund, as defined in Code Section 419(e), or an individual medical account, as defined in Code Section 415(l)(2), under which amounts are treated as Annual Additions with respect to any Participant in this Plan:
    - 1. ☐ N/A.
    - 2. ☒ The provisions of Section 4.4(b) of the Plan will apply.
    - 3. ☐ Provide the method under which the Plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.
- NOTE: If a.3 above is selected, an Employer may not rely on the opinion letter issued by the Internal Revenue Service that this Plan is qualified under Code Section 401.

b. If any Participant is or ever has been a Participant in a defined benefit plan maintained by the Employer:

1. ☒ N/A.
2. ☐ In any Limitation Year, the Annual Additions credited to the Participant under this Plan may not cause the sum of the Defined Benefit Plan Fraction and the Defined Contribution Fraction to exceed 1.0. If the Employer's contribution that would otherwise be made on the Participant's behalf during the limitation year would cause the 1.0 limitation to be exceeded, the rate of contribution under this Plan will be reduced so that the sum of the fractions equals 1.0. If the 1.0 limitation is exceeded because of an Excess Amount, such Excess Amount will be reduced in accordance with Section 4.4(a)(4) of the Plan.
3. ☐ Provide the method under which the Plans involved will satisfy the 1.0 limitation in a manner that precludes Employer discretion.

E7 DISTRIBUTIONS UPON DEATH (Plan Section 6.6(h))  
Distributions upon the death of a Participant prior to receiving any benefits shall...

- a. ☒ be made pursuant to the election of the Participant or beneficiary.
- b. ☐ begin within 1 year of death for a designated beneficiary and be payable over the life (or over a period not exceeding the life expectancy) of such beneficiary, except that if the beneficiary is the Participant's spouse, begin within the time the Participant would have attained age 70 1/2.
- c. ☐ be made within 5 years of death for all beneficiaries.
- d. ☐ other \_\_\_\_\_

E8 LIFE EXPECTANCIES (Plan Section 6.5(f)) for minimum distributions required pursuant to Code Section 401(a)(9) shall...

- a. ☒ be recalculated at the Participant's election.
- b. ☐ be recalculated.
- c. ☐ not be recalculated.

E9 CONDITIONS FOR DISTRIBUTIONS UPON TERMINATION

Distributions upon termination of employment pursuant to Section 6.4(a) of the Plan shall not be made unless the following conditions have been satisfied:

- a. ☒ N/A. Immediate distributions may be made at Participant's election.
- b. ☐ The Participant has incurred \_\_\_\_ 1-Year Break(s) in Service.
- c. ☐ The Participant has reached his or her Early or Normal Retirement Age.
- d. ☐ Distributions may be made at the Participant's election on or after the Anniversary Date following termination of employment.
- e. ☐ Other \_\_\_\_

E10 FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in annuities and (select all that apply)...

- a. ☐ N/A. No other forms
- b. ☐ in lump sums.
- c. ☒ in lump sums or installments.

AND, may be made in...

- a. ☒ cash only (except for insurance or annuity contracts).
- b. ☐ cash or property.



**TOP HEAVY REQUIREMENTS**

F1 TOP HEAVY DUPLICATIONS (Plan Section 4.3(i)): When a Non-Key Employee is a Participant in this Plan and a Defined Benefit Plan maintained by the Employer, indicate which method shall be utilized to avoid duplication of top heavy minimum benefits.

- a. ☒ The Employer does not maintain a Defined Benefit Plan.
- b. ☐ A minimum, non-integrated contribution of 5% of each Non-Key Employee's total Compensation shall be provided in this Plan, as specified in Section 4.3(i). (The Defined Benefit and Defined Contribution Fractions will be computed using 100% if this choice is selected.)
- c. ☐ A minimum, non-integrated contribution of 7 1/2% of each Non-Key Employee's total Compensation shall be provided in this Plan, as specified in Section 4.3(i). (If this choice is selected, the Defined Benefit and Defined Contribution Fractions will be computed using 125% for all Plan Years in which the Plan is Top Heavy, but not Super Top Heavy.)
- d. ☐ Specify the method under which the Plans will provide top heavy minimum benefits for Non-Key Employees that will preclude Employer discretion and avoid inadvertent omissions, including any adjustments required under Code Section 415(e).

F2 PRESENT VALUE OF ACCRUED BENEFIT (Plan Section 2.2) for Top Heavy purposes where the Employer maintains a Defined Benefit Plan in addition to this Plan, shall be based on...

- a. ☒ N/A. The Employer does not maintain a defined benefit plan.
- b. ☐ Interest Rate: \_\_\_\_\_  
Mortality Table: \_\_\_\_\_

F3 TOP HEAVY DUPLICATIONS: Employer maintaining two (2) or more Defined Contribution Plans (other than paired plans).

- a. ☒ N/A.
- b. ☐ A minimum, non-integrated contribution of 3% of each Non-Key Employee's total Compensation shall be provided in the Money Purchase Plan (or other plan subject to Code Section 412), where the Employer maintains two (2) or more non-paired Defined Contribution Plans.
- c. ☐ Specify the method under which the Plans will provide top heavy minimum benefits for Non-Key Employees that will preclude Employer discretion and avoid inadvertent omissions, including any adjustments required under Code Section 415(e).

F4 IS THIS A PAIRED PLAN?

a. (X) Yes. Name the Plan(s) with which this is paired.

Admont, Inc. Profit Sharing Plan

b. ( ) No or N/A.

MISCELLANEOUS

G1 LOANS TO PARTICIPANTS (Plan Section 7.4)

- a. ☒ Yes, loans may be made up to \$50,000 or 1/2 Vested interest.
- b. ☐ No, loans may not be made.

If YES, (check all that apply)...

- c. ☐ loans shall be treated as a Directed Investment.
- d. ☐ loans shall only be made for hardship or financial necessity.
- e. ☐ the minimum loan shall be \$1,000.
- f. ☐ \$10,000 de minimis loans may be made regardless of Vested interest. (If selected, Plan may need security in addition to Vested interest.)

NOTE: Department of Labor Regulations require the adoption of a **separate** written loan program setting forth the requirements outlined in Plan Section 7.4.

G2 DIRECTED INVESTMENT ACCOUNTS (Plan Section 4.8) are permitted for the interest in any one or more accounts.

- a. ☐ Yes, regardless of the Participant's Vested interest in the Plan.
- b. ☐ Yes, but only with respect to the Participant's Vested interest in the Plan.
- c. ☐ Yes, but only with respect to those accounts which are 100% Vested.
- d. ☒ No directed investments are permitted.

G3 TRANSFERS FROM QUALIFIED PLANS (Plan Section 4.6)

- a. ☒ Yes, transfers from qualified plans (and rollovers) will be allowed.
- b. ☐ No, transfers from qualified plans (and rollovers) will not be allowed.

AND, transfers shall be permitted...

- c. ☐ from any Employee, even if not a Participant.
- d. ☒ from Participants only.

G4 LIFE INSURANCE (Plan Section 7.2(d)) may be purchased with Plan contributions.

- a. ☒ No life insurance may be purchased.
- b. ☐ Yes, at the option of the Administrator.
- c. ☐ Yes, at the option of the Participant.

AND, the purchase of initial or additional life insurance shall be subject to the following limitations: (select all that apply)

- d. ☐ N/A, no limitations.
- e. ☐ each initial Contract shall have a minimum face amount of \$\_\_\_\_\_.
- f. ☐ each additional Contract shall have a minimum face amount of \$\_\_\_\_\_.
- g. ☐ the Participant has completed \_\_\_\_\_ Years of Service.
- h. ☐ the Participant has completed \_\_\_\_\_ Years of Service while a Participant in the Plan.
- i. ☐ the Participant is under age \_\_\_\_\_ on the Contract issue date.
- j. ☐ the maximum amount of all Contracts on behalf of a Participant shall not exceed \$\_\_\_\_\_.
- k. ☐ the maximum face amount of life insurance shall be \$\_\_\_\_\_.

An Employer who has ever maintained or who later adopts any plan in addition to this Plan (including a welfare benefit fund, as defined in Code Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for Key Employees, as defined in Code Section 419A(d)(3) or an individual medical account, as defined in Code Section 415(l)(2)) (other than paired plan #01-002; #01-006) may not rely on the opinion letter issued by the National Office of the Internal Revenue Service as evidence that this Plan is qualified under Code Section 401. If the Employer who adopts or maintains multiple plans wishes to obtain reliance that the Employer's plan(s) are qualified, application for a determination letter should be made to the appropriate key district director of Internal Revenue.

This Adoption Agreement may be used only in conjunction with basic Plan document #01. This Adoption Agreement and the basic Plan document shall together be known as Reish & Luftman Standardized Money Purchase Plan and Trust #01-004.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Reish & Luftman will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan provided this Plan has been acknowledged by Reish & Luftman or its authorized representative. Furthermore, in order to be eligible to receive such notification, we agree to notify Reish & Luftman of any change in address.

IN WITNESS WHEREOF, the Trustee hereby cause this Plan to be executed on ~~October~~ Nov 5, 1999. Furthermore, this Plan may not be used unless acknowledged by Reish & Luftman or its authorized representative.

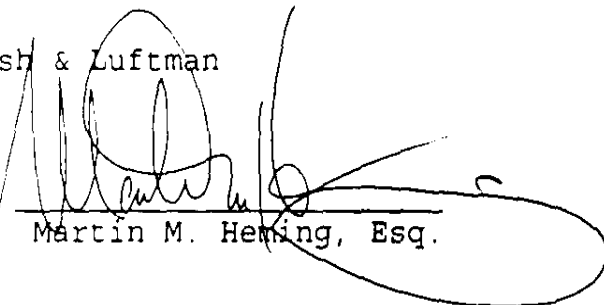
TRUSTEE FOR THE  
ADMONT, INC. MONEY PURCHASE PENSION PLAN

  
Pat Cochrane

This Plan may not be used, and shall not be deemed to be a Regional Prototype Plan, unless an authorized representative of Reish & Luftman has acknowledged the use of the Plan. Such acknowledgment is for administrative purposes only. It acknowledges that the Employer is using the Plan but does not represent that this Plan, including the choices selected on the Adoption Agreement, has been reviewed by a representative of the sponsor or constitutes a qualified retirement plan.

Reish & Luftman

By:

  
Martin M. Henning, Esq.

**AMENDMENT**  
**TO THE**  
**ADMONT, INC.**  
**PROFIT SHARING PLAN**

*Prepared by:*

REISH & LUFTMAN  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
11755 Wilshire Boulevard, Tenth Floor  
Los Angeles, California 90025  
(310) 478-5656

**AMENDMENT  
TO THE  
ADMONT, INC.  
PROFIT SHARING PLAN**

The following amendment to the Admont, Inc. Profit Sharing Plan ("Plan") is hereby adopted to read as follows:

- (1) Section 1.9, the definition of "Compensation", is amended for Plan Years beginning after December 31, 1996, to read as follows:

"1.9 "Compensation" with respect to any Participant means such Participant's compensation as specified by the Employer in E1 of the Adoption Agreement that is paid during the determination year. Except as provided elsewhere in this plan, the determination period shall be the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the determination period shall be the plan year. For any Self-Employed Individual, compensation shall be equal to his Earned Income.

In addition, if specified in the Adoption Agreement, Compensation for all Plan purposes shall also include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 402(a)(8), 402(h)(1)(B), or 403(b).

For Plan Years beginning on or after January 1, 1989, and before January 1, 1994, the annual compensation for each participant taken into account for determining all benefits provided under the plan for any plan year shall not exceed \$200,000. This limitation shall be adjusted by the Secretary at the same time and in the same manner as under section 415(d) of the Code, except that the dollar increase in effect on January 1 of any calendar year is effective for plan years beginning in such calendar year and the first adjustment to the \$200,000 limitation is effective on January 1, 1990.

For Plan Years beginning on or after January 1, 1994, the annual compensation for each participant taken into account for determining all benefits provided under the plan for any plan year shall not exceed \$150,000, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year.

If a determination period consists of fewer than 12 months the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12.



If compensation for any prior determination period is taken into account in determining a participant's allocations for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. For this purpose, in determining allocations in plan years beginning on or after January 1, 1989, the annual compensation limit in effect for determination periods beginning before that date is \$200,000. In addition, in determining allocations in plan years beginning on or after January 1, 1994, the annual compensation limit in effect for determination periods beginning before that date is \$150,000."

- (2) The definition of "Family Member" in Section 1.21 is hereby deleted in its entirety effective for Plan Years beginning after December 31, 1996.
- (3) Section 1.28, the definition of "Highly Compensated Employee," is amended for Plan Years beginning after December 31, 1996 to read as follows:

"1.28 "Highly Compensated Employee" means an Employee described in Code Section 414(q) and the Regulations thereunder, and generally means an Employee who performed services for the Employer during the "determination year" and is in one or more of the following groups:

(a) Employees who at any time during the "determination year" or "look-back year" were "five percent owners" of the Employer.

(b) Employees who received "415 Compensation" during the "look-back year" from the Employer in excess of \$80,000 and were in the Top Paid Group of Employees during the "look-back year."

The "determination year" shall be the Plan Year for which testing is being performed, and the "look-back year" shall be the immediately preceding twelve-month period.

For purposes of this Section, the determination of "415 Compensation" shall be made by including amounts which are contributed by the Employer pursuant to a salary reduction agreement and which are not includible in the gross income of the Participant under Code Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and Employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions. Additionally, the dollar threshold amount specified in (b) above shall be adjusted at such time and in the same manner as under Code Section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.

In determining who is a Highly Compensated Employee, Employees who are non-resident aliens and who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer constituting United States source income within the meaning of Code Section 861(a)(3) shall not be treated as Employees. Additionally, all Affiliated Employers shall be taken into account as a single employer and Leased Employees within the

meaning of Code Section 414(n)(2) and 414(o)(2) shall be considered Employees unless such Leased Employees are covered by any qualified plan maintained by the Employer. The exclusion of Leased Employees for this purpose shall be applied on a uniform and consistent basis for all of the Employer's retirement plans. Highly Compensated Former Employees shall be treated as Highly Compensated Former Employees without regard to whether they performed services during the "determination year."

- (4) Section 1.37, the definition of "Leased Employee," is amended effective for Plan Years beginning after December 31, 1996 to read as follows:

"1.37 "Leased Employee" means any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization" has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

A leased employee shall not be considered as Employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code Sections 125, 402(a)(8), 402(h), or 403(b); (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient's nonhighly compensated workforce."

- (5) Section 1.40, the definition of "Non-Highly Compensated Participant", is amended for Plan Years beginning December 31, 1996 as follows:

"1.40 "Non-Highly Compensated Participant" means any Participant who is neither a Highly Compensated Employee."

- (6) Article One is amended, effective December 12, 1994, by the addition of a new definition at the end thereof to read:

"1.75 **USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

- (7) Any reference in this Plan and Trust to family aggregation rules is stricken effective for Plan Years beginning after December 31, 1996.

- (8) Section 4.4(f)(4) is amended effective for Plan Years beginning after December 31, 1996 to read as follows:

"(4) Defined contribution dollar limitation means \$30,000, as described under Code Section 415(c)(1)(A), which shall be adjusted annually as provided in Code Section 415(d) pursuant to the Regulations. The adjusted limitation is effective as of January 1st of each calendar year and is applicable to "limitation years" ending with or within that calendar year."

- (9) The last paragraph of Section 6.4(a) is amended for Plan Years beginning after August 6, 1997 to read as follows:

"Notwithstanding the above, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 and has never exceeded \$5,000 at the time of any prior distribution, the Administrator shall direct the Trustee to cause the entire Vested benefit to be paid to such Participant in a single lump sum without regard to the consent of the Participant or the Participant's spouse. A Participant's Vested benefit shall not include Qualified Voluntary Employee Contributions within the meaning of Code Section 72(o)(5)(B) for Plan Years beginning prior to January 1, 1989."

- (10) Section 6.5(a)(2) is amended for Plan Years beginning after December 31, 1996 by the addition of the following paragraph at the end thereof to read as follows:

"Notwithstanding the above, if the Participant elects (with spousal consent) to waive the requirement that the written explanation be provided at least 30 days before the Annuity Starting Date, the election period shall be extended to the 30th day after the date on which such explanation is provided to the Participant."

- (11) Section 6.5(a)(5) is amended for Plan Years beginning after December 31, 1996 by the addition of the following paragraph at the end thereof to read:

"Notwithstanding the foregoing, a Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date; or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the joint and survivor annuity is provided to the Participant."

- (12) Section 6.5(b) is amended for Plan Years beginning after December 31, 1996 by the addition of sub-section 6.5(b)(4) at the end thereof as follows:

"(4) Provide married Participants with a notice explaining the joint and survivor annuity form as well as an election form (if the distribution is more than \$5,000). The Participant must be given the option to decide whether or not to waive the joint and survivor annuity within the 90 days period prior to the "annuity starting date" (the first day of the first period for which an amount is paid as an annuity or any other form). However, the 90 day period

may be extended to the 30th day after the Participant is provided the explanation of the joint and survivor annuity. Unmarried Participants should be furnished with a notice explaining the straight life annuity form as well as an election form (if the distribution is more than \$5,000) within the same time periods as married Participants."

- (13) Section 6.5(c) is amended in its entirety for Plan Years beginning after August 6, 1997 to read:

"(c) The present value of a Participant's joint and survivor annuity derived from Employer and Employee contributions may not be paid without his written consent if the value exceeds, or has never exceeded, \$5,000 at the time of any prior distribution. Further, the spouse of a Participant must consent in writing to any immediate distribution. Any written consent required by this Section 6.5(c) must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(a)(2)."

- (14) Section 6.5(d) is amended for Plan Years beginning after August 6, 1997 as follows:

"(d) Any distribution to a Participant who has a benefit which exceeds, or has ever exceeded, \$5,000 at the time of any prior distribution shall require such Participant's consent if such distribution commences prior to the later of his Normal Retirement Age or age 62. With regard to this required consent:"

- (15) Section 6.5(e)(1) is amended in its entirety for Plan Years beginning after December 31, 1996 as follows:

"(1) A Participant's benefits shall be distributed or must begin to be distributed to him not later than April 1st of the calendar year following the later of (i) the calendar year in which the Participant attains age 70-1/2, or (ii) the calendar year in which the Participant retires, provided, however, that this clause (ii) shall not apply in the case of a Participant who is a "five percent (5%) owner" at any time during the first (5) Plan Year period ending in the calendar year in which he attains age 70-1/2, or in the case of a Participant who becomes a "five percent (5%) owner" during any subsequent Plan Year, clause (ii) shall no longer apply and the required beginning date shall be the April 1st of the calendar year following the calendar year in which such subsequent Plan Year ends. Such distributions shall be equal to or greater than any required distribution. Notwithstanding the foregoing, clause (ii) above shall not apply to any Participant unless the Participant had attained age 70-1/2 before January 1, 1988 and was not a "five percent (5%) owner" at any time during the Plan Year ending with or within the calendar year in which the Participant attained age 66-1/2 or any subsequent Plan Year."

- (16) Section 6.6(f) is amended for Plan Years beginning after August 6, 1997 to read as follows:

"If the present value of the Pre-Retirement Survivor Annuity derived from Employer and Employer contributions does not exceed \$5,000 and has never exceeded \$5,000 at the time of any prior distribution, the Administrator shall direct the immediate distribution of such amount to the Participant's spouse. No distribution may be made under the preceding sentence after the Annuity Starting Date unless the spouse consents in writing. If the value exceeds, or has even exceeded, \$5,000 at the time of any prior distribution, an immediate distribution of the entire amount of the Pre-Retirement Survivor Annuity may be made to the surviving spouse, provided such surviving spouse consents in writing to such distribution. Any written consent required under this paragraph must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(a)(2)."

- (17) Section 7.4 is amended, effective December 12, 1994, by the addition of the following paragraph at the end thereof to read as follows:

"Notwithstanding the foregoing, loan repayments will be suspended under this Plan as permitted under Code Section 414(u)(4)."

Executed at Los Angeles, California on October 22, 1999.

TRUSTEE:

ADMONT, INC. PROFIT SHARING PLAN

  
Pat Cochrane